

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

IN RE:)	
)	Case No: 3:17-bk-05822
JARMON D&Q TRANSPORT, LLC,)	Chapter 7
)	Judge Harrison
Debtor.)	

THE DEADLINE FOR FILING A TIMELY RESPONSE IS: December 12, 2017
IF A RESPONSE IS TIMELY FILED, THE HEARING WILL BE: December 19, 2017, at
9:00 a.m., in Courtroom Three, 2nd Floor, Customs House, 701 Broadway, Nashville,
Tennessee.

**NOTICE OF TRUSTEE'S MOTION TO SELL PERSONAL PROPERTY FREE AND
CLEAR OF LIENS**

Michael Gigandet, Trustee, has asked the court for the following relief: permission to sell property free and clear of liens.

YOUR RIGHTS MAY BE AFFECTED. If you do not want the court to grant the attached motion by entering the attached order, or if you want the court to consider your views on the motion, then on or before December 12, 2017, you or your attorney must:

1. File with the court your response or objection explaining your position. **PLEASE NOTE: THE BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF TENNESSEE REQUIRES ELECTRONIC FILING. ANY RESPONSE OR OBJECTION YOU WISH TO FILE MUST BE SUBMITTED ELECTRONICALLY. TO FILE ELECTRONICALLY, YOU OR YOUR ATTORNEY MUST GO TO THE COURT WEBSITE AND FOLLOW THE INSTRUCTIONS AT: <<https://ecf.tnmb.uscourts.gov>>.**

If you need assistance with Electronic Filing you may call the Bankruptcy Court at (615) 736-5584. You may also visit the Bankruptcy Court in person at: 701 Broadway, 1st Floor, Nashville, TN (Monday - Friday, 8:00 A.M. - 4:00 P.M.).

2. **Your response must state that the deadline for filing responses is December 12, 2017, the date of the scheduled hearing is December 19, 2017, and the motion to which you are responding is the Trustee's Motion to Sell Personal Property Free and Clear of Liens.**

3. You must serve your response or objection **by electronic service through the Electronic Filing system** described above. You must also mail a copy of your response or objection to:

Michael Gigandet, Trustee
208 Centre Street
Pleasant View, TN 37146

United States Trustee
701 Broadway, Customs House Suite 318
Nashville, TN 37203

Justin T. Campbell
Thompson Burton PLLC
6100 Tower Circle,
Suite 200
Franklin, TN 37067

If a response is filed before the deadline stated above, the hearing will be held at the time and place indicated above. ***THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.*** You may check whether a timely response has been filed by calling the Clerk's office at (615) 736-5584 or viewing the case on the Court's website at <<https://ecf.tnmb.uscourts.gov>>.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter the attached order granting that relief.

Dated: November 21, 2017

By: /s/ Justin T. Campbell
Justin T. Campbell
Thompson Burton PLLC
6100 Tower Circle, Suite 200
Franklin, TN 37067
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**TRUSTEE'S MOTION TO SELL PERSONAL PROPERTY FREE AND CLEAR OF
LIENS**

Michael Gigandet, Trustee, by and through counsel, and moves the Court for an order pursuant to 11 U.S.C. §§ 105(a), 363, 704, and Fed. R. Bankr. P. 2002 and 6004 to approve the sale of the following property of the estate in the manner or on the terms indicated below. In support of this Motion, the Trustee states:

A. BACKGROUND

1. Jarmon D&Q Transport, LLC (the "Debtor") commenced this case by filing a voluntary chapter 7 petition on August 25, 2017 ("Petition Date").

2. The Trustee was duly appointed as Trustee in this Chapter 7 bankruptcy case, has been duly qualified, and is now serving in said capacity.

2. Certain personal property described as a 2016 Ford E550 15 Passenger Elkhart Transit Van; VIN: 1FDEE3FSXGDC51298 (the "Van") is titled in the name of the Debtor, and is property of the bankruptcy estate.

3. As of the Petition Date, the Debtor valued the Bus at \$35,000.00. *See* Schedule A/B filed August 25, 2017 (Page 9, Docket No. 1).¹

4. The Debtors listed a secured claim of US Bank Equipment Finance ("US Bank") on Schedule D filed on May 19, 2017 relating to the two Elkhart coaches. *See* Page 13 of Docket No. 1

5. Upon review of the title and ownership information, US Bank only holds a valid perfected security interest as to one of the Elkhart coaches. The Van listed for sale in this Motion is not encumbered by a validly perfected security interest of US Bank. US Bank is not listed as a lienholder on the title to the Van. *See* TN Dept. of Revenue Title and Registration information, attached as Exhibit A.

¹ The Debtor listed two Elkhart coaches, each worth \$35k under the same line of its Schedule A/B. The Van listed for sale in this Motion is one of those two Elkhart coaches.

6. The Van is in the possession of Ethan Massa, Massa Estate Group (“Professional”).

7. The Trustee has received approval to employ the Professional to sell the Bus on behalf of the bankruptcy estate. *See* Order Granting Trustee’s Application to Employ Massa Estate Group, as Agent for the Trustee for the purpose of selling property of the Bankruptcy Estate. (Docket No. 17).

B. THE SALE

8. The Trustee proposes to sell the Vehicle pursuant to the following terms and conditions:

DATE OF SALE:	On or after December 13, 2017
TIME OF SALE:	N/A
PLACE OF SALE:	N/A
TYPE OF SALE:	Private Sale
AGENT:	Ethan Massa, Massa Estate Group
TERMS:	Cash
SALE PRICE:	Best Offer
MIN. BID PRICE:	N/A
BUYER(S) NAME(S):	Unknown
PROPOSED MARKETING:	Direct Mail, Online Advertising, Trade Papers

9. The sale will be conducted as an arms-length transaction between the parties.

10. The sale/bid price will be for a fair and reasonable value based upon the Professional’s expertise and recommendation. The Trustee will obtain the best possible price for the Van to maximize distribution to the creditors.

11. The sale will not be to an insider of the Debtors as defined in 11 U.S.C. § 101(31).

12. The Trustee proposes to sell the Van as is and where is and makes no representations or warranties as to the condition of the Van.

13. The Trustee will convey by valid Bankruptcy Trustee’s Deed, or other appropriate instrument, the right, title, and interest that the Trustee has the right to convey.

14. The sale of the Vehicle is being made free and clear of any interest in the Van held by an entity other than the estate pursuant to 11 U.S.C. § 363(f) because either: (1) applicable non-bankruptcy law permits the sale of the Vehicle free and clear of such interests; (2) such entity consents to the sale; (3) such interest is a lien and the price at which the Van is to be sold is greater than the aggregate value of all liens on the Van; (4) such interest is in bona fide dispute; or (5) such entity could be compelled, in a legal or equitable proceeding to accept a money satisfaction of such interest.

15. From the sale proceeds, the Trustee proposes to pay any costs of the sale, commissions, fees, and exemptions. The Trustee proposes to pay the following commissions, and lienholders:

Lienholders:	None – US Bank does not have a recorded interest on the Van's title.
Debtor's Exemption:	None
Massa Estate Group, Commission:	Ten percent (10%) of gross proceeds for the Van per L.B.R. 6005-1. <i>See</i> Order Granting Trustee's Application to Employ Massa Estate Group, as Agent for the Trustee for the purposes of selling property of the Bankruptcy Estate (Docket No. 17).

16. The Trustee believes that the sale is in the best interest of the bankruptcy estate, the Debtor, creditors and other parties in interest and should be approved.

WHEREFORE, the Trustee respectfully requests that this Court enter an Order, submitted by the Trustee, in the absence of any timely filed objection to this Motion, which:

- A. Authorizes the Trustee to sell the Van under the terms and conditions described above;
- B. Approves the sale of the Van pursuant to 11 U.S.C. § 363 (b), (f), (h), (m) and Fed. R. Bankr. P. 6004;
- C. Declares that the sale of the Van is free and clear of liens;
- D. Declares that the sale of the Van is free and clear of exemptions;
- E. Approves the payment of sale proceeds to the cost of sale;
- F. Waives the ten (10) day stay of the order approving the sale under Fed. R. Bankr. P. 6004(h);
- G. Requires the Trustee to file a final report of sale with the Court in accordance with Fed. R. Bankr. P. 6004(f) and LBR 6004-1; and
- H. Grants such other relief that the Court deems just and proper.

Dated: November 21, 2017.

Respectfully submitted,

/s/ Justin T. Campbell
Justin T. Campbell
THOMPSON BURTON PLLC
6100 Tower Circle, Suite 200
Franklin, TN 37067
Telephone: 615-465-6015
Fax: 615-807-3048
justin@thompsonburton.com

Counsel for the Chapter 7 Trustee

PROPOSED

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
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AT NASHVILLE

IN RE:)	
)	Case No: 3:17-bk-05822
JARMON D&Q TRANSPORT, LLC,)	Chapter 7
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**ORDER AUTHORIZING SALE OF PERSONAL PROPERTY FREE AND CLEAR OF
LIENS**

The Trustee having filed with the Court a Motion to Sell Personal Property Free and Clear of Liens, notice of the Motion to Sell Personal Property Free and Clear of Liens being provided to the parties to which notice is required pursuant to Local Rule 9013-1, and no objection to this Motion having been presented;

IT IS HEREBY ORDERED as follows:

- A. That the Trustee is authorized to sell all of his right, title and interest in personal property described as a 2015 Ford E550 15 Passenger Elkhart Transit Van; VIN: 1FDEE3FSXGDC51298 ("Van") under the terms and conditions set forth in the Trustee's Motion to Sell Personal Property Free and Clear of Liens previously filed with this Court on November 20, 2017.
- B. That the sale is approved pursuant to 11 U.S.C. § 363(b), (f), (h), (m), and (n) and Fed. R. Bankr. P. 6004.
- C. That the Van is being sold as is, where is, and the Van is being sold free and clear of any liens, claims, interests, encumbrances and exemptions.
- D. That upon receipt of the funds and entry of this Order, the Trustee will convey by the appropriate instrument, the right, title, and interest that the Trustee has the right to convey.

- E. That this Order shall be immediately effective upon entry notwithstanding Fed. R. Bankr. P. 6004(h) and any other of the Federal Rules of Bankruptcy Procedure.

This Order was signed and entered electronically as indicated at the top of the first page.

APPROVED FOR ENTRY:

Justin T. Campbell
Thompson Burton
One Franklin Park
6100 Tower Circle
Franklin, TN 3706
Telephone: 615-466-6015
Fax: 615-807-3048
justin@thompsonburton.com

PROPOSED

Counsel to the Chapter 7 Trustee

Certificate of Service

The undersigned hereby certifies that a copy of the preceding Motion and Proposed Order were electronically filed and mailed either electronically or by U.S. mail, postage prepaid to all parties requesting notice, as reflected on the mailing matrix attached to this pleading.

This 21st day of November, 2017.

/s/ Justin T. Campbell
Justin T. Campbell
Thompson Burton PLLC
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6100 Tower Circle, Suite 200
Franklin, TN 37067
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